

DEC 18 2 28 PM '98

BK 1066 PG 213
W.E. DAVIS CH. CLK.When recorded, return to:

Mike A. Anderson, Esq.
Anderson, McCoy & Orta, P.C.
100 N. Broadway, Suite 2650
Oklahoma City, Oklahoma 73102

MODIFICATION AND EXTENSION OF NOTE AND DEED OF TRUST

STATE OF MISSISSIPPI

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COUNTY OF DESOTO

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This agreement for MODIFICATION AND EXTENSION OF NOTE AND DEED OF TRUST ("Agreement") is made effective as of the 22nd day of August, 1998, by and between the FEDERAL DEPOSIT INSURANCE CORPORATION, in its capacity as Receiver for Empire Federal Savings Bank of America, ("FDIC"), whose servicer is Banc One Management and Consulting Corporation, Servicer under CLS for FDIC ("BOMCC"), and City of Horn Lake, Mississippi, a Mississippi Municipal Corporation ("BORROWER").

PRELIMINARY STATEMENTS

WHEREAS, FDIC made a loan to Borrower on August 22, 1996, in the original principal amount of \$1,562,370.00 (the "Loan");

WHEREAS, the Loan is currently evidenced by a certain Promissory Note executed by Borrower to FDIC also dated August 22, 1996 (herein the "Note"), which Note is in the principal sum of \$1,562,370.00.

WHEREAS, the Note and the Loan are also evidenced by, and/or secured by, a certain Purchase Money Deed of Trust, Assignment of Rents and Security Agreement (herein Deed of Trust) dated of even date with the Loan and Note, which Deed of Trust was recorded on August 27, 1996 in Book 851, at Page 308, in the Office of the Clerk of DeSoto County, Mississippi. Said Deed of Trust covers certain real estate more particularly described therein on Exhibit "A", and described herein on Exhibit "A" attached hereto and incorporated herein for all purposes.

WHEREAS, FDIC is the owner and holder of the Note and Loan, and the beneficiary under the Deed of Trust, and any other loan documents delivered in connection with said loan (herein the "Other Loan Documents"); and

WHEREAS, FDIC and Borrower now propose to modify certain of the terms and provisions of the Loan, the Note, the Deed of Trust and the Other Loan Documents.

NOW, THEREFORE, for and in consideration of the premises and the mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, FDIC and Borrower hereby agree as follows:

1. Ratifications. Borrower hereby agrees as follows:

(a) The terms and provisions set forth in this Agreement shall modify and supersede all inconsistent terms and provisions set forth in the Loan, the Note, the Deed of Trust and the Other Loan Documents and except as expressly modified and superseded by this Agreement, the terms and provisions of the Loan, the Note, the Deed of Trust and the Other Loan Documents are ratified and confirmed and shall continue in full force and effect. Borrower agrees that the Loan, the Note, the Deed of Trust and the Other Loan Documents, as amended hereby, shall continue to be legal, valid, binding and enforceable in accordance with their respective terms; and

(b) Borrower hereby ratifies, confirms, and to the extent it will not release, terminate, interfere with or otherwise do away with any and all existing liens, security interests or encumbrances securing the Note, grants and regrants to FDIC any and all liens, security interests and encumbrances created thereby (to the extent collateral covered by the Deed of Trust or Other Loan Documents has not previously been released in writing by the mortgagee or beneficiary of the liens, security interests and encumbrances), and agrees that: (i) same shall be for the benefit of and to secure the Note, as amended hereby, and all other indebtedness described in the Loan, the Deed of Trust or Other Loan Documents, (ii) the renewal, extension and/or restructure of the Note and Deed of Trust shall in no manner affect or impair the liens, security interests or encumbrances securing the Note, (iii) said liens, security interests or encumbrances shall not in any manner be waived, the purpose of this Agreement being to renew and/or extend the Note, and (iv) the liens, security interests and encumbrances created by the Deed of Trust and Other Loan Documents are acknowledged by Borrower to be valid and subsisting as security for and for the benefit of the Note and all other indebtedness described in the Deed of Trust or Other Loan Documents.

2. Current Note Balance. As of August 22, 1998, the outstanding principal balance of the Note is \$1,562,370.00. After all conditions precedent as set forth in this Agreement have been satisfied, including a \$78,118.50 principal payment by Borrower made on November 22, 1998, the outstanding principal balance of the Note as of the date this Agreement is actually executed by the FDIC is \$1,484,251.50.

3. Conditions Precedent. The effectiveness of this Agreement is subject to the following conditions precedent which shall be satisfied on or before November 22, 1998 ("Closing"), unless a different date is set forth below: (a) that all representations and warranties contained herein shall be true and correct as of the Closing; (b) that Borrower shall provide or cause to be provided to FDIC a standard mortgagee policy endorsement (the "Endorsement"), insuring the dignity and priority of the lien of the Deed of Trust, as modified by the terms and

provisions hereof, as set forth in that certain title policy no. M-9903-1021555 issued by Stewart Title Guaranty Company (the "Title Company"), dated August 27, 1996 (the "Policy"), which mortgagee policy endorsement shall name FDIC, its successors and assigns, as insured, and subject only to (i) the exceptions and encumbrances specified in Schedule B of the Policy, (ii) such other exceptions as may have been approved in writing by FDIC at the time of execution hereof, and (iii) taxes on the Property for the current and subsequent years, but not yet due and payable; (c) all taxes and insurance premiums related to the Property must be paid current as of Closing; (d) Borrower shall have provided the FDIC the following information: (i) proof of paid real estate taxes on the Property; (ii) proof of hazard insurance on the Property designating FDIC as loss payee; (iii) proof of flood insurance designating the FDIC as loss payee, if the Property is designated as being in a flood zone; and (v) current financial statement for Borrower and a copy of the last filed federal tax return for Borrower; (e) Borrower shall have paid the FDIC a principal payment of \$78,118.50 on or before November 22, 1998; and (f) Borrower shall have delivered to FDIC a Notice To Borrower About Federal Flood Risk Information.

4. Payment of Extension Fee. Prior to or contemporaneously with the execution and delivery of this Agreement, Borrower shall remit to BOMCC cash funds in the amount of \$8,000.00, which sum shall be in payment of an extension fee due to BOMCC as additional consideration for the extension of the maturity date of the Note as set forth herein.

5. Extension and Modification of the Note. The Note is hereby renewed, extended and/or restructured as follows:

a. Extension of Maturity. The maturity date of the Note is hereby extended until August 22, 2013, when the unpaid principal balance of the Note, together with all accrued but unpaid interest thereon, shall, unless made payable earlier as provided herein, the Note or in any of the Loan Documents due to an event of default, be due and payable.

b. Payment of the Note. The Note shall be due and payable as follows: Installments of principal and interest shall be due and payable monthly. Borrower will be notified within 10 days after this Agreement is fully executed by the parties hereto on the exact amount of the principal and interest payment. The first such payment shall be due on August 22, 1998, and subsequent payments shall be due on the same day of each month thereafter until the maturity date of as described above. Each such installment shall be applied first to accrued and unpaid interest on the outstanding principal balance of the Note and then to the principal. Such payments are based on an approximately three hundred sixty (360) month amortization period, such amortization period commencing on the 1st day of January 1, 1999.

c. Prepayment. The Note may be prepaid by Borrower, in whole or in part, upon thirty (30) days written notice to FDIC. Such prepayment(s) may only be made on a date on which a payment under the Note is due and all prepayment(s)

must include all accrued interest on the Note as of the date of each prepayment. Any prepayment(s) shall not reduce change the time nor amount of the payments due under paragraph 6(b) above.

7. Business Day. Should the principal of, or any installment of interest upon, the Note become due and payable on any day other than a Business Day, the maturity thereof shall be extended to the next succeeding Business Day, and interest shall be payable with respect to such extension. All payments of principal of and interest on the Note shall be made by Borrower to FDIC before 12:00 noon (local time) in federal or other immediately available funds in care of Banc One Management and Consulting Corporation, Servicer under CLS for FDIC, at P.O. Box 224828, Dallas, Texas 75222. Funds received after 12:00 noon (local time) shall be treated for all purposes as having been received by FDIC on the Business Day next following the date of receipt of such funds. "Business Day" shall mean any Monday through Friday upon which national banks located in the State of Texas are open for business.

8. Default Interest. All past due principal of and, to the extent permitted by applicable law, interest upon the Note shall bear interest at the rate of eighteen percent (18%) per annum, but in no event to exceed the Maximum Rate. The term "Maximum Rate", as used herein, shall mean, with respect to the holder of the Note, the maximum nonusurious interest rate, if any, that at any time, or from day to day, may be contracted for, taken, reserved, charged, or received on the indebtedness evidenced by the Note, under the laws which are presently in effect of the United States and the State of Mississippi applicable to such holder and such indebtedness or, to the extent permitted by law, under such applicable laws of the United States and the State of Mississippi which may hereafter be in effect and which allow a higher maximum nonusurious interest rate than applicable laws now allow. If applicable law does not provide for such a maximum rate of interest, the Maximum Rate shall be equal to eighteen percent (18%) per annum.

9. Representations and Warranties.

A. Borrower hereby represents and warrants to FDIC that the execution, delivery and performance of this Agreement, the Note, the Deed of Trust and any and all Other Loan Documents executed and/or delivered in connection herewith have been authorized by all requisite action and do not and will not violate any laws to which Borrower may be subject to, and its partnership agreement or its bylaws and articles of incorporation, as the case may be.

B. Borrower hereby ratifies and confirms all of the warranties and representations contained in the Loan Documents and agree that same are true and correct as of the date of execution of this Agreement and for the benefit of the Note as amended hereby.

C. Borrower represents and warrants to FDIC that Borrower is not in default under the Note, the Deed of Trust and the Other Loan Documents.

11. Releases, Covenants Not to Litigate, Assignments and Indemnification. In consideration for the renewal, extension and/or restructure of the Note and as of the date of the execution of this Agreement by Borrower hereby agrees as follows (Borrower sometimes referred to as "Releasing Party"):

a. Releasing Party hereby: (i) fully and finally acquits, quitclaims, releases and discharges each of the Released Parties (the term "Released Parties" shall be defined as FDIC, Federal Deposit Insurance Corporation in any and/or all of its capacities, Resolution Trust Corporation in any and/or all of its capacities, Federal Savings and Loan Insurance Corporation in any and/or all of its capacities, Empire Federal Savings Bank of America, BOMCC and their respective officers, directors, shareholders, representatives, employees, agents and attorneys), of and from any and all obligations, claims, liabilities, damages, demands, debts, liens, deficiencies or cause or causes of action (including claims and causes of action for usury) to, of or for the benefit (whether directly or indirectly) of the Releasing Party, at law or in equity, known or unknown, contingent or otherwise, whether asserted or unasserted, whether now known or hereafter discovered, whether statutory, in contract or in tort, as well as any other kind or character of action now held, owned or possessed (whether directly or indirectly) by the Releasing Party on account of, arising out of, related to or concerning, whether directly or indirectly, proximately or remotely (x) the Note or any of the Loan Documents, or (y) this Agreement; (ii) waives any and all defenses to payment of the Note for any reason; and (iii) waives any and all defenses, counterclaims or offsets to the Loan Documents (collectively, the "Released Claims");

b. In addition to the releases contained hereinabove, and not in limitation thereof, the Releasing Party hereby agrees that it shall not prosecute, or voluntarily aid in the prosecution of, any of the Released Claims, whether by claim, counter-claim or otherwise;

c. If, and to the extent that, any of the Released Claims are, for any reason whatsoever, not released and discharged pursuant to the provisions of paragraph (a) above, the Releasing Party hereby absolutely and unconditionally grants, sells, bargains, transfers, assigns and conveys unto FDIC each and every of the Released Claims and any proceeds, settlements and distributions relating thereto; and

d. The Releasing Party hereby expressly agrees to indemnify and hold harmless the Released Parties, and each of them, of and from any and all obligations, claims, liabilities, damages, demands, debts, liens, costs, disbursements and expenses of any of such Released Parties, that may be asserted or may arise, whether directly or indirectly, proximately or remotely, in connection with (i) any claim or assertion that FDIC, or any of the Released Parties, must disgorge or otherwise return any sums heretofore paid or credited on to or in connection with the Note and/or (ii) any claim or assertion with respect to the execution or delivery, or the consummation of the transactions contemplated by, this Agreement.

12. Borrower's Environmental Protection Obligations.

(a)(i) Borrower will not hereafter cause or (with respect to the Property) suffer to occur, a discharge, spillage, uncontrolled loss, seepage or filtration (hereinafter referred to as a "Spill") of oil or petroleum or chemical liquids or solids, liquid or gaseous products or hazardous waste, or hazardous substance as those terms are used in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as the same may be amended from time to time (hereinafter referred to as the "Act") at, upon, under or within the Property or any contiguous real estate; (ii) Borrower has not been and will not be involved in operations at or in the Property which could lead to the imposition on Borrower of liability, or the creation of a lien on the Property, under the Act or under any similar applicable laws or regulations; and (iii) Borrower has not and will not knowingly permit any tenant or occupant of the Property to engage in any activity that could lead to the imposition of liability on such tenant or occupant, Borrower, or any other owner of any of the Property, or the creation of a lien on the Property, under the Act or any similar applicable laws or regulations;

(b) Borrower shall comply strictly and in all respects with the requirements of the Act and related regulations and with all similar applicable laws and regulations and shall notify FDIC promptly in the event of any spill or location of hazardous substance upon the Property, and shall promptly forward to FDIC copies of all orders, notices, permits, applications or other communications and reports in connection with any spill or any other matters relating to the Act or related regulations or any similar applicable laws or regulations, as they may affect the Property;

(c) If FDIC has reasonable cause to believe that a Spill or a violation of the Act or a breach of any of Borrower's obligations under this section entitled "Environmental Protection Obligations" may exist (whether or not such Spill, violation or breach is ultimately found to exist), Borrower promptly upon the written request of FDIC from time to time, shall provide FDIC with an environmental site assessment or environmental audit report, or an update of such an assessment or report, all in scope, form and content reasonably satisfactory to FDIC, at Borrower's expense;

(d) Borrower shall indemnify FDIC and hold FDIC harmless from and against all loss, liability, damage and expense, including reasonable attorneys' fees, suffered or incurred by FDIC, whether as holder of the Deed of Trust, as mortgagee in possession or as successor in interest to Borrower as owner of the Property by virtue of foreclosure or acceptance of a deed in lieu of foreclosure arising (i) under or on account of a violation of any federal, state or local law, regulation or ordinance relating to environmental regulation including, but not limited to the following, as the same may be amended from time to time: (a) the Resource Conservation and Recovery Act of 1976; (b) the Comprehensive Environmental Response, Compensation and Liability Act of 1980; (c) Superfund Amendments and Reauthorization Act of 1986; or (d) Environmental Protection Agency regulations promulgated thereunder (collectively the "Hazardous

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Substance Laws"); (ii) with respect to any Spill or hazardous substance affecting the Property, including any loss of value of the Property as a result of a Spill or hazardous substance; and (iii) with respect to any other matter affecting the Property within the jurisdiction of the federal Environmental Protection Agency or pursuant to the Hazardous Substance Laws and in the regulations adopted pursuant to the Hazardous Substance Laws; and

(e) In the event of any Spill or hazardous substance affecting the Property, or if Borrower shall fail to comply with the provisions of this section entitled "Environmental Protection Obligations" or any of the requirements of the Hazardous Substance Laws regulations or any other environmental law or regulation, FDIC may, at FDIC's election, but without the obligation to do so, give such notices and/or cause such work to be performed at the Property and/or take any and all other actions as FDIC, in FDIC's sole and absolute discretion, shall deem necessary or advisable in order to remedy said spill or hazardous substance or cure said failure of compliance and any amounts paid as a result thereof, together with interest thereon at the default rate as set forth in the Note from the date of payment by FDIC, shall be added to and become a part of the secured indebtedness, shall be due on demand, and shall have the benefit of the lien created by the Deed of Trust.

13. No Waiver of Remedies. Except as may be expressly set forth herein, nothing contained in this Agreement shall prejudice, act as, or be deemed to be a waiver of any right or remedy available to FDIC by reason of the occurrence or existence of any fact, circumstance or event constituting a default under the Note or the other Loan Documents.

14. Interest Limitation. The Loan Documents shall be governed by and construed according to the laws of the State of Mississippi from time to time in effect except to the extent preempted by United States federal law. If the real property subject to the Loan Documents is "residential real property" and the indebtedness evidenced by the Note as modified herein, and secured by the Loan Documents ("Indebtedness"), is secured by a first lien on residential real property within the meaning of Part A, Title V of the Depository Institutions Deregulation and Monetary Control Act of 1980, as amended, and the regulations promulgated thereunder, then, the following provisions of this paragraph shall be inapplicable. However, if, for any reason, the provisions of Part A, Title V of the Act shall be found not to exempt any and all interest and other charges payable in connection with the Indebtedness from any limitation otherwise applicable, the following provisions shall apply. It is expressly stipulated and agreed to be the intent of Borrower and FDIC at all times to comply with Mississippi law governing the highest lawful rate or amount of interest payable on the Indebtedness (or applicable United States federal law to the extent that it permits FDIC to contract for, charge, take, reserve or receive a greater amount of interest than under Mississippi law). If (i) the applicable law is ever judicially interpreted so as to render usurious any amount called for under the Note as modified herein, or under any of the Other Loan Documents, or contracted for, charged, taken, reserved or received with respect to the Indebtedness, or (ii) FDIC's exercise of the option to accelerate the maturity of the Note results in Borrower having paid or FDIC having charged or received any

interest in excess of that permitted by applicable law, or (iii) any prepayment by Borrower results in Borrower having paid or FDIC having charged or received any interest in excess of that permitted by applicable law, then, in any such event, it is Borrower's and FDIC's express intent that (a) all excess amounts theretofore collected by FDIC be credited on the principal balance of the Indebtedness (or, if the Indebtedness has been or would thereby be paid in full, refunded to Borrower), and (b) the provisions of the Note as modified herein, and the other Loan Documents immediately be deemed reformed and the amounts thereafter collectible hereunder and therefore reduced, without the necessity of the execution of any new documents so as to comply with the applicable law, but so as to permit the recovery of the fullest amount otherwise called for hereunder or thereunder not in excess of the highest lawful amount of interest on the indebtedness. All sums paid or agreed to be paid to FDIC for the use, forbearance or detention of the indebtedness shall, to the extent permitted by applicable law, be amortized, prorated, allocated and spread throughout the full term of the indebtedness until payment in full of the Indebtedness so that the rate or amount of interest on account of the Indebtedness does not exceed the usury ceiling from time to time in effect and applicable to the Indebtedness for so long as the Indebtedness is outstanding. Notwithstanding anything to the contrary contained herein, in any letters or in any of the Other Loan Documents, it is not the intention of FDIC to accelerate the maturity or demand payment of any interest that has not accrued at the time of such acceleration or to collect unearned interest at the time of such acceleration.

15. Notices. All notices or other communications required or permitted to be given pursuant to the Loan Documents or hereto (except for notice of a foreclosure sale which shall be given in the manner specifically set forth in the Deed of Trust or by applicable law) shall be in writing and shall be deemed served and given at the time of (i) deposit in a depository receptacle under the care and custody of the United States Postal Service, properly addressed to the designated address of the addressee as set forth below, postage prepaid, registered or certified mail with return receipt requested or (ii) delivery to the designated address of the addressee set forth below by a third party commercial delivery service. Notice given in any other manner shall be effective only if and when received by the addressee. For purposes of notices, the addresses of the parties shall be as follows:

FDIC:

Federal Deposit Insurance Corporation
c/o Banc One Management and Consulting Corporation
1717 Main Street, 12th Floor
Dallas, Texas 75201

BORROWER:

City of Horn Lake, Mississippi
2285 Goodman Road
Horn Lake, Mississippi 38637
Attn: Mayor Mike Thomas

Either party shall have the right to change its address for notice hereunder and under the Note, the Deed of Trust and the Other Loan Documents to any other location within the continental United States by notice to the other party of such new address at least thirty (30) days prior to the effective date of such new address.

16. Costs and Expenses. Contemporaneously with the execution and delivery hereof, Borrower and Guarantors shall pay, or cause to be paid, all costs and expenses incident to the preparation, execution and recordation hereof and the consummation of the transaction contemplated hereby, including, but not limited to, FDIC's attorneys fees and expenses, recording fees, title insurance policy or endorsement premiums or other charges of the Title Company. To the extent not prohibited by applicable law, Borrower and Guarantors will pay all costs and expenses and reimburse FDIC for any and all expenditures of every character incurred or expended from time to time during the existence of any default hereunder or under the Loan Documents, in connection with FDIC's evaluating, monitoring, administering, and protecting the Property, and creating, perfecting and realizing upon FDIC's security interest in its liens upon the Property, and all costs and expenses, including, without limitation, all appraisal fees, consulting fees, filing fees, taxes, brokerage fees and commissions, fees incident to any security interest lien and other title searches and reports, escrow fees, attorney's fees, legal expenses, court costs, costs incurred in connection with liquidation or sale of the Property, and all other professional fees. Any amount to be paid under this section by Borrower and Guarantors to lender and, to the extent not prohibited by applicable law, shall bear interest from the date of demand at the Maximum Rate.

17. Default. A failure by Borrower to observe or perform any covenant, term or provision of this Agreement shall constitute a default under the Note and other Loan Documents.

18. Additional Documentation. From time to time, Borrower shall execute or procure and deliver to FDIC such other and further documents and instruments evidencing, securing or pertaining to the Loan or the Loan Documents as shall be reasonably requested by FDIC so as to evidence or effect the terms and provisions hereof.

19. Governing Law. **THE TERMS AND PROVISIONS HEREOF SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, EXCEPT AS OTHERWISE EXPRESSLY PROVIDED HEREIN.**

20. Waiver of Jury Trial. Due to the complexity of the transaction contemplated by the Loan Documents, Borrower hereby acknowledges and agrees that a trial before a judge is more appropriate than a trial before a jury. Borrower hereby waives the right to a trial by jury in any suit involving the enforcement of the provisions of any of the Loan Documents, and grants the judge presiding over any such suit full power and authority to determine all questions of fact.

21. Severability. Any provision of this Agreement held by a court of competent jurisdiction to be invalid or unenforceable shall not impair or invalidate the remainder of this

Agreement and the effect thereof shall be confined to the provision so held to be invalid or unenforceable.

22. Transferability. Notwithstanding anything contained in the Loan Documents to the contrary, FDIC shall have the right to assign or transfer all or part of its rights, duties and obligations under the Loan Documents to a transferee who may or may not be a holder of the Note and such transferee shall be entitled to all of the rights and benefits of FDIC under the Loan Documents.

23. Duress. Borrower hereby acknowledges that it is executing this Agreement as its free act and deed, not under duress or other compulsion and for full and fair consideration.

25. Successors and Assigns. This Agreement is binding upon and shall inure to the benefit of FDIC, the Released Parties and the Releasing Party and its respective successors and assigns, except that the Releasing Party may not assign or transfer any of its respective rights or obligations hereunder without the prior written consent of FDIC, which may be withheld for any reason or no reason; provided, however, the foregoing shall not be deemed or construed to (i) permit, sanction, authorize or condone the assignment of all or any part of the Property or any of Borrower's rights, titles or interests in and to the Property or any rights, titles or interests in and to Borrower, except as expressly authorized in the Loan Documents, or (ii) confer any right, title, benefit, cause of action or remedy upon any person or entity not a party hereto, which such party would not or did not otherwise possess.

26. Counterparts. To facilitate execution, this Agreement may be executed in as many counterparts as may be convenient or required. It shall not be necessary that the signature and acknowledgment of, or on behalf of, each party, or that the signature and acknowledgment of all persons required to bind any party, appear on each counterpart. All counterparts shall collectively constitute a single instrument. It shall not be necessary in making proof of this Agreement to produce or account for more than a single counterpart containing the respective signatures and acknowledgment of, or on behalf of, each of the parties hereto.

27. Effect of Waiver. No failure on the part of FDIC to exercise and no delay in exercising, and no course of dealing with respect to, any right, power or privilege under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege under this Agreement preclude any other right, power or privilege. The rights and remedies provided for in this Agreement, the Note and the other Loan Documents are cumulative and not exclusive of any rights and remedies provided by law.

28. Headings. The headings, captions and arrangements used in this Agreement are for convenience only and do not affect the interpretations of this Agreement.

29. Time. Time is of the essence in the performance of the covenants contained herein and in the Loan Documents.

30. No Oral Agreements. In consideration of the modification of the Loan as provided herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto (i) agree that each party's execution of this Agreement constitutes an acknowledgement that such party has read and understands this Agreement, and that it is intended to be part of and is incorporated by reference into each of the Loan Documents; (ii) acknowledges receipt of the following Notice, and (iii) to the extent allowed by law, agrees to be bound by the terms of this Agreement and the Notice:

NOTICE: THIS DOCUMENT AND ALL OTHER DOCUMENTS RELATING TO THIS LOAN CONSTITUTE A WRITTEN LOAN AGREEMENT WHICH REPRESENTS THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENT OF THE PARTIES.

THERE ARE NO ORAL AGREEMENTS BETWEEN THE PARTIES RELATING TO THE LOAN.

This Modification and Extension of Note and Deed of Trust is executed effective as of, although not necessarily on, the date and year first above written.

FDIC:

FEDERAL DEPOSIT INSURANCE CORPORATION, in its capacity as Receiver for Empire Federal Savings Bank of America

By: _____

Name: Russell F. Bellemare
Title: Attorney-In-Fact

BORROWER:

THE CITY OF HORN LAKE, MISSISSIPPI

By: _____

Name: Mike Thomas
Title: Mayor

WITNESS/ATTEST:

City Clerk

MODIFICATION AGREEMENT

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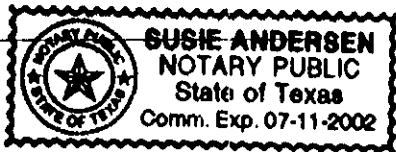
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STATE OF TEXAS §
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 COUNTY OF DALLAS §

This Modification and Extension of Note and Deed of Trust was ACKNOWLEDGED before me, on the 22 day of November, 1998, by Russell F. Bellemare, as Attorney-In-Fact, on behalf of The Federal Deposit Insurance Corporation, in its capacity as Receiver for Empire Federal Savings Bank of America, on behalf of said Receiver.

[S E A L]

My Commission Expires:



Susie Andersen
 Notary Public, State of Texas

Susie Andersen
 Printed Name of Notary Public

STATE OF MISSISSIPPI §
 §
 COUNTY OF De Soto §

This Modification and Extension of Note and Deed of Trust was ACKNOWLEDGED before me, on the 20 day of November, 1998, by Mike Thomas, the Mayor of City of Horn Lake, Mississippi, a Mississippi Municipal Corporation, on behalf of said corporation, known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument upon behalf of the corporation, which the person acted, executed the instrument.

[S E A L]

My Commission Expires:

August 9, 1999
 Loan Number 000001547

Linda Kay Wheeler
 Notary Public, State of Mississippi

Linda Kay Wheeler
 Printed Name of Notary Public

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EXHIBIT "A"

A LEGAL DESCRIPTION OF A 9.079 ACRE, (395,493 SQUARE FEET), MORE OR LESS, TRACT OF LAND BEING KNOWN AS WESTWIND APARTMENTS BEING LOCATED IN THE NORTHEAST AND THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 35, TOWNSHIP 1 SOUTH, RANGE 8 WEST, HORN LAKE, DESOTO COUNTY, MISSISSIPPI AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF THE SOUTHEAST QUARTER OF SAID SECTION 35; THENCE SOUTH 89 DEGREES 43 MINUTES 48 SECONDS WEST FOR A DISTANCE OF 3672.44 FEET TO A REBAR, FOUND, SAID REBAR BEING THE TRUE POINT OF BEGINNING FOR THE HEREIN DESCRIBED TRACT; THENCE SOUTH 00 DEGREES 44 MINUTES 44 SECONDS WEST FOR A DISTANCE OF 292.14 FEET (CALL = S 00°16'12" E 292.00) TO A REBAR, FOUND; THENCE SOUTH 89 DEGREES 40 MINUTES 17 SECONDS WEST FOR A DISTANCE OF 575.43 FEET (CALL = S 89°43'48" W 575.43) TO A 1/2 INCH REBAR, SET; THENCE SOUTH 00 DEGREES 36 MINUTES 09 SECONDS EAST FOR A DISTANCE OF 705.09 FEET (CALL = S 00°01'02" W 705.09) TO A REBAR, FOUND; THENCE SOUTH 89 DEGREES 56 MINUTES 40 SECONDS WEST FOR A DISTANCE OF 266.50 FEET (CALL = S 89°58'58" E 265.51) TO A REBAR, FOUND; THENCE NORTH 00 DEGREES 05 MINUTES 12 SECONDS WEST FOR A DISTANCE OF 536.03 FEET (CALL = N 00°01'06" E 535.68) TO AN IRON PIN, FOUND; THENCE NORTH 89 DEGREES 43 MINUTES 48 SECONDS EAST FOR A DISTANCE OF 76.50 FEET AN IRON PIN, FOUND; THENCE NORTH 00 DEGREES 19 MINUTES 48 SECONDS WEST FOR A DISTANCE OF 460.08 FEET (CALL = N 00°16'12" W 460.08) TO A 1/2 INCH REBAR, SET; THENCE NORTH 89 DEGREES 40 MINUTES 51 SECONDS EAST FOR A DISTANCE OF 765.28 FEET (CALL = N 89°43'48" E 765.28) TO THE TRUE POINT OF BEGINNING AND CONTAINING 9.079 ACRES, (395,493 SQUARE FEET), MORE OR LESS, OF LAND BEING SUBJECT TO ALL CODES, REGULATIONS AND RESTRICTIONS, RIGHTS OF WAY, AND EASEMENTS OF RECORD.

INDEXING INSTRUCTIONS: NE/4 and NW/4 of the SW/4 of Section 35, Township 1 South, Range 8 West of DeSoto County, Mississippi

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